

EXHIBIT A

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Individually and on behalf of all others similarly situated

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County of Alameda
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

Marites Perez, Individually and on behalf of
all others similarly situated,

Plaintiff,

vs.

It Works Marketing, Inc.; Does 1 through
20, Inclusive,

Defendants.

Case No. **23CV038881**

CLASS ACTION COMPLAINT FOR:

1. Failure to Pay Minimum Wages;
2. Failure to Pay Overtime Wages;
3. Failure to Timely Pay All Wages;
4. Failure to Provide Meal Periods;
5. Failure to Provide Rest Breaks;
6. Unlawful Deduction of Wages;
7. Failure to Reimburse Business Expenses;
8. Failure to Provide Accurate and Itemized Wage Statements;
9. Failure to Timely Pay All Wages Due Upon Separation of Employment;
10. Violation of California Business and Professions Code §§ 17200, *et seq.*

DEMAND FOR JURY TRIAL

1 Plaintiff Marites Perez, individually and on behalf of all others similarly situated, alleges
2 as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Marites Perez (“Plaintiff”) brings this putative class action against
5 Defendants It Works Marketing, Inc. and Does 1 through 20, inclusive (collectively,
6 “Defendants”), on behalf of herself individually and all other aggrieved employees employed by
7 Defendants throughout California.

8 2. Defendant It Works Marketing, Inc. is a corporation doing business in the state of
9 California.

10 3. Through this action, Plaintiff alleges that Defendants have engaged in a
11 systematic pattern of wage and hour violations under the California Labor Code (“Labor Code”)
12 and Industrial Welfare Commission (“IWC”) Wage Orders, all of which contribute to
13 Defendants’ deliberate unfair competition.

14 4. Plaintiff is informed and believes, and thereon alleges, during the relevant time
15 period, Defendants had a consistent policy of violating state wage and hour laws by, among other
16 things:

- 17 (a) misclassification of employees as independent contractors;
- 18 (b) failing to pay minimum wages for all hours worked;
- 19 (c) failing to pay overtime wages for all hours worked;
- 20 (d) failing to timely pay all earned wages;
- 21 (e) failing to provide lawful meal periods or compensation in lieu thereof;
- 22 (f) failing to authorize or permit lawful rest breaks or provide compensation
23 in lieu thereof;
- 24 (g) unlawfully deducting wages;
- 25 (h) failing to reimburse all business expenses;
- 26 (i) failing to provide accurate itemized wage statements; and
- 27 (j) failing to pay all wages due upon separation of employment.

28 5. Plaintiff brings this lawsuit seeking monetary relief against Defendants on behalf

1 of herself and all others similarly situated in California to recover, among other things, unpaid
2 wages and benefits, interest, attorneys' fees, costs and expenses and penalties pursuant to Labor
3 Code §§ 201-204, 210, 221, 226, 226.7, 226.8, 510, 512, 1194, 1194.2, 1197, 1198, 2800, 2802,
4 and 3700.

5 **JURISDICTION AND VENUE**

6 6. This is a class action pursuant to California Code of Civil Procedure § 382. The
7 monetary damages and restitution sought by Plaintiff exceed the minimal jurisdictional limits of
8 the Superior Court and will be established according to proof at trial.

9 7. This Court has jurisdiction over this action pursuant to the California
10 Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all causes
11 except those given by statutes to other courts. The statutes under which this action is brought do
12 not specify any other basis for jurisdiction.

13 8. This Court has jurisdiction over all Defendants because, upon information and
14 belief, they are citizens of the state of California, have sufficient minimum contacts in California,
15 or otherwise intentionally avail themselves of the California market so as to render the exercise
16 of jurisdiction over them by the California courts consistent with traditional notions of fair play
17 and substantial justice.

18 9. Venue is proper in this Court because, upon information and belief, Defendants
19 reside, transact business, or have offices in this county and the acts and omissions alleged herein
20 took place in this county.

21 **THE PARTIES**

22 10. Plaintiff is a citizen of California. Plaintiff worked for Defendants in California
23 during the relevant time periods as alleged herein.

24 11. Plaintiff is informed and believes, and thereon alleges, that Defendants are
25 corporations doing business throughout the State of California, and at all times hereinafter
26 mentioned, an employer as defined in and subject to the California Labor Code and Industrial
27 Welfare Commission ("IWC") Wage Orders, whose employees are and were engaged throughout
28 this county and the State of California.

12. Plaintiff is unaware of the true names or capacities of the defendants sued herein under the fictitious names Does 1 through 20, but will seek leave of this Court to amend this Complaint and serve such fictitiously named defendants once their names and capacities become known.

13. Plaintiff is informed and believes, and thereon alleges, that each defendant acted in all respects pertinent to this action as the agent of the other defendant, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendant. Furthermore, defendants in all respects acted as the employer and/or joint employer of Plaintiff and the class members.

14. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and omissions alleged herein were performed by, or are attributable to, Defendants and/or Does 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on the other's behalf. The acts of any and all Defendants were in accordance with, and represent, the official policy of Defendants.

15. At all relevant times, Defendants, and each of them, acted within the scope of such agency or employment, or ratified each and every act or omission complained of herein. At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each and all the other Defendants in proximately causing the damages herein alleged.

16. Plaintiff is informed and believes, and thereon alleges, that each of said Defendants is in some manner intentionally, negligently or otherwise responsible for the acts, omissions, occurrences and transactions alleged herein.

CLASS ACTION ALLEGATIONS

17. Plaintiff brings this action under Code of Civil Procedure § 382 on behalf of herself and all others similarly situated who were affected by Defendants' Labor Code, Business and Professions Code §§ 17200, and IWC Wage Order violations.

18. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

19. Plaintiff's proposed classes consist of and are defined as follows:

1 Class

2 All individuals who performed work for Defendant in the state of
3 California who were classified as independent contractors from March 27,
4 2017 to the date of trial.¹

5 20. Plaintiff also seeks to certify the following Subclass:

6 Waiting Time Subclass

7 All members of the Class who separated their employment from
8 Defendant from March 27, 2018 to the date of trial.

9 21. Members of the Class and Subclass described above will be collectively referred
10 to as “Class Members.” Plaintiff reserves the right to establish other or additional subclasses, or
11 modify any Class or Subclass definition, as appropriate based on investigation, discovery and
12 specific theories of liability.

13 22. This action has been brought and may properly be maintained as a class action
14 under the California Code of Civil Procedure § 382 because there are common questions of law
15 and fact as to the Class that predominate over questions affecting only individual members,
16 including, but not limited to:

- 17 (a) Whether Defendants misclassified Plaintiff and Class Members as independent
- 18 contractors rather than as non-exempt employees;
- 19 (b) Whether Defendants failed to pay at least minimum wage for all hours worked by
- 20 Plaintiff and Class Members;
- 21 (c) Whether Defendants failed to pay overtime wages earned by Plaintiff and Class
- 22 Members;
- 23 (d) Whether Defendants failed to timely pay Plaintiff and Class Members all wages
- 24 earned;
- 25 (e) Whether Defendants failed to provide Plaintiff and Class Members with meal
- 26 periods;

27 ¹ The statute of limitations for this matter was tolled pursuant to Cal. Rules of Court, App. I, Emergency
28 Rule No. 9.

- (f) Whether Defendants failed to provide Plaintiff and Class Members with paid rest breaks or required Plaintiff and Class Members to work through rest breaks without compensation;
- (g) Whether Defendants illegally deducted wages from Plaintiff and Class Members;
- (h) Whether Defendants required Plaintiff and Class Members to use their personal cellular devices and home internet for work-related purposes without paying a reasonable percentage of their cell phone or internet bills;
- (i) Whether Defendants required Plaintiff and Class Members to pay a monthly fee to use Defendants' web services for work-related purposes without reimbursing these expenses;
- (j) Whether Defendants failed to furnish Plaintiff and Class Members with accurate, itemized wage statements;
- (k) Whether Defendants failed to timely pay Plaintiff and former Class Members all wages due upon termination or within 72 hours of resignation; and
- (l) Whether Defendants engaged in unfair business practices in violation of Business and Professions Code §§ 17200, *et seq.*

23. There is a well-defined community of interest in this litigation and the Class is readily ascertainable:

- (a) Numerosity: The members of the Class are so numerous that joinder of all members is impractical. Although the members of the Class are unknown to Plaintiff at this time, on information and belief, the Class is estimated to be greater than 100 individuals. The identity of the class members are readily ascertainable by inspection of Defendants' employment and payroll records.
- (b) Typicality: The claims (or defenses, if any) of Plaintiff are typical of the claims (or defenses, if any) of the Class because Defendants' failure to comply with the provisions of California wage and hour laws entitled each class member to similar pay, benefits and other relief. The injuries

1 sustained by Plaintiff are also typical of the injuries sustained by the Class
2 because they arise out of and are caused by Defendants' common course
3 of conduct as alleged herein.

4 (c) Adequacy: Plaintiff is qualified to, and will fairly and adequately
5 represent and protect the interests of all members of the Class because it is
6 in his best interest to prosecute the claims alleged herein to obtain full
7 compensation and penalties due to him and the Class. Plaintiff's
8 attorneys, as proposed class counsel, are competent and experienced in
9 litigating large employment class actions and are versed in the rules
10 governing class action discovery, certification and settlement. Plaintiff
11 has incurred and, throughout the duration of this action, will continue to
12 incur attorneys' fees and costs that have been and will be necessarily
13 expended for the prosecution of this action for the substantial benefit of
14 each class member.

15 (d) Superiority: The nature of this action makes the use of class action
16 adjudication superior to other methods. A class action will achieve
17 economies of time, effort and expense as compared with separate lawsuits,
18 and will avoid inconsistent outcomes because the same issues can be
19 adjudicated in the same manner and at the same time for each Class. If
20 appropriate this Court can, and is empowered to, fashion methods to
21 efficiently manage this case as a class action.

22 (e) Public Policy Considerations: Employers in the State of California and
23 other states violate employment and labor laws every day. Current
24 employees are often afraid to assert their rights out of fear of direct or
25 indirect retaliation. Former employees are fearful of bringing actions
26 because they believe their former employers might damage their future
27 endeavors through negative references and/or other means. Class actions
28 provide the class members who are not named in the complaint with a type

of anonymity that allows for the vindication of their rights at the same time as affording them privacy protections.

GENERAL ALLEGATIONS

A. Plaintiff Satisfies the Legal Test for Employee Status

24. Defendants are multi-level marketing company in the business of recruiting distributors (“It Works Distributors”), which are the core of It Works’ workforce and business.

25. It Works Distributors, among other tasks, engage in recruiting other individuals to join Defendants as distributors, thereby advancing the core business model described above.

26. Indeed, It Works Distributors’ compensation plan is based primarily on this recruitment of other distributors to work under themselves, which Defendants refer to as a “leg.”

Leg:

Each Independent Distributor on your first level represents a separate “Leg” in your team. Legs in your organization grow as your first-level Distributors begin to build their own teams (downlines).

Qualified Leg:

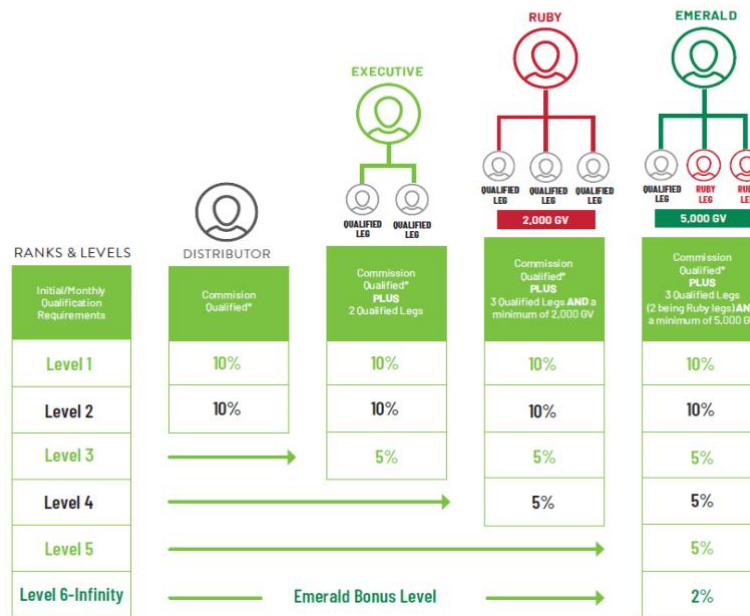
A Qualified Leg is one with an Active Distributor and at least 400 total Group Volume coming from anywhere in the depth of the Leg. The top Distributor of a Leg does not have to be Commission Qualified for the Leg to be considered a Qualified Leg.

27. By having these legs who work beneath them, It Works Distributors are able to make money through the purchases that each leg makes from Defendants and receive income based on the legs that these It Works Distributors build underneath them. The way that It Works Distributors can advance in their employment is to increase their “rank,” starting at “Level 1” and increasing to “Level 6-Infinity,” which is determined by how many legs (i.e., distributors) they have recruited underneath them:

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IT WORKS! RANK & BONUS STRUCTURE



MANAGEMENT LEVELS

EXECUTIVE

To qualify to be paid as an Executive, you must complete the same steps as a Distributor AND have a minimum of 2 Qualified Legs.

As an Executive, you are eligible to be paid on three levels of your downline orders after compression. See *Management Bonuses chart, page 7*.



RUBY

To qualify to be paid as a Ruby, gather and build to 3 Qualified Legs with at least 1 of the 3 Legs being an **Executive Leg**.

Executive Leg: a Leg with an Executive somewhere in the depth of the Leg.

As a Ruby, you are eligible to be paid on four levels of your downline orders after compression. See *Management Bonuses chart, page 7*.



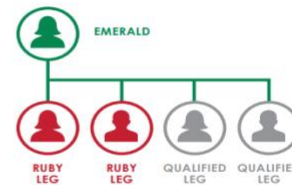
EMERALD

To qualify to be paid as an Emerald, gather and build to 4 Qualified Legs with at least 2 of the 4 Legs being **Ruby Legs**.

Ruby Leg: a Leg with a Ruby somewhere in the depth of the Leg.

As an Emerald, you are eligible to be paid on five levels of your downline orders after compression. See *Management Bonuses chart, page 7*.

As an Emerald, you will also earn the **Emerald Bonus**. With the Emerald Bonus, you'll earn an additional 2% payout on the Bonus Volume on unlimited levels starting with the sixth level and going through the fifth level of the first Emerald or higher in any Leg after compression is applied.



1 28. This company structure is what enables the usual course of business of
2 Defendants: the recruitment of new It Works Distributors.

3 29. As part of their illegal scheme of misclassifying their employees as independent
4 contractors, Defendants require its distributors to bear the costs of business expenses for the
5 company and are illegally making a profit by forcing their employees to pay for such business
6 expenses plus a markup. Indeed, Defendants will charge their It Works Distributors for the
7 ability to begin employment with them and start selling for them, in the form of a “starter kit.”
8 Defendants also charge It Works Distributors to make use of Defendant It Works’ web services,
9 as well as require It Works Distributors to maintain a certain amount of purchase volume each
10 month in order to maintain their Distributor status (which leads distributors to often be their own
11 biggest customers). Defendants also require an annual fee from It Works Distributors for the
12 privilege of being one of their employees. Each of these charges is, effectively, an illegal wage
13 deduction and/or an illegal business expense being transferred from Defendants to their
14 employees.

15 30. Defendants are not merely a platform or uninterested bystander that enable It
16 Works Distributors to engage in their own truly independent business. Rather, Defendants set
17 the compensation policies of It Works Distributors (based primarily off their ability to recruit
18 other It Works Distributors below them in legs), provide training for their It Works Distributors,
19 and always retain the right to terminate It Works Distributors if they violate any of the
20 company’s numerous policies.

21 31. As a result, It Works Distributors lack business autonomy. It Works Distributors
22 are each not engaged in an independently-established business. Instead, the It Works
23 Distributors are dependent on Defendants to provide them with products, marketing tools, and a
24 website for a fee. Indeed, It Works Distributors may not have their own company website as
25 any such website is required to be on Defendants’ platform. The strict control that Defendants
26 assert over its distributors is codified in the Statement of Policies and Procedures that It Works
27 Distributors are required to follow: “Distributors must submit all proposed personal development
28 system, coaching system, sales aid, lead generation systems, promotional materials,

1 advertisements, and other literature to the Company for approval to compliance@itworks.com.
2 Unless the Distributor receives specific written approval to use such tools, the request shall be
3 deemed denied. Independently produced websites are not permitted unless approved by the
4 Company.”

5 32. By working for Defendants, It Works Distributors have not gone into business for
6 themselves. Instead, Defendants have unilaterally determined that Plaintiff and It Works
7 Distributors are independent contractors while precluding them from taking the usual steps
8 towards promoting and establishing an independent business. It Works Distributors are not
9 customarily engaged in an independently established trade, occupation, or business of the same
10 nature as the work performed.

11 33. Defendants control the terms of employment. Defendants maintain uniform
12 policies and terms of service with which all It Works Distributors, including Plaintiff, must
13 comply. Such guidelines include training materials on how to perform work as an It Works
14 Distributor, strict adherence to the Compensation Plan described above, and even the purported
15 requirement that It Works Distributors agree to not solicit other It Works Distributors to work for
16 a competing company within twenty-four months after such an It Works Distributor leaves
17 Defendants company or is terminated.

18 34. In sum, Defendants control the terms of employment of their distributors.

19 **B. Defendant’s Misclassification of Plaintiff and Class Members Violates Their**
20 **Rights Under California Law**

21 35. At all relevant times mentioned herein, Plaintiff and Class Members performed
22 services for Defendants as It Works Distributors during the relevant time period and were
23 classified as independent contractors.

24 36. Defendants employed Plaintiff during the relevant time period.

25 37. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
26 herein, Defendants were advised by skilled lawyers, employees, and other professionals who
27 were knowledgeable about California’s wage and hour laws, employment and personnel
28 practices, and the requirements of California law.

1 38. Through this action, Plaintiff alleges that Defendants have engaged in a
2 systematic pattern of wage and hour violations under the California Labor Code and IWC Wage
3 Orders.

4 39. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
5 should have known that Plaintiff and Class Members were entitled to timely receive wages for
6 all time worked (including minimum wages, regular, and overtime wages) and that they were not
7 receiving all wages earned for work that was required to be performed. For example, Defendants
8 failed to pay all commissions earned by Plaintiff and Class Members twice during each calendar
9 month and failed to pay Plaintiff and Class Members for the time spent attending training
10 meetings. In violation of the Labor Code and IWC Wage Orders, Plaintiff and Class Members
11 were not paid all wages (including minimum wages and overtime wages) for all hours worked.

12 40. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and Class Members were entitled to receive all required meal
14 periods or payment of one (1) additional hour of pay at the aggrieved employees' regular rate of
15 pay when they did not receive a timely, uninterrupted meal period. In violation of the Labor
16 Code and IWC Wage Orders, aggrieved employees did not receive all meal periods or payment
17 of one (1) additional hour of pay at the aggrieved employees' regular rate of pay when they did
18 not receive a timely, uninterrupted meal period.

19 41. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and Class Members were entitled to receive all rest breaks or
21 payment of one (1) additional hour of pay at the aggrieved employees' regular rate of pay when a
22 rest break was missed. In violation of the Labor Code and IWC Wage Orders, Class Members
23 did not receive all rest breaks or payment of one (1) additional hour of pay at the aggrieved
24 employees' regular rate of pay when a rest break was missed, interrupted, or on-duty.

25 42. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that Plaintiff and Class Members were entitled to receive itemized wage
27 statements that accurately showed the following information pursuant to the Labor Code: (1)
28 gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units

1 earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all
2 deductions, provided that all deductions made on written orders of the employee may be
3 aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for
4 which the employee is paid; (7) the name of the employee and only the last four digits of his or
5 her social security number or an employee identification number other than a social security
6 number; (8) the name and address of the legal entity that is the employer; and (9) all applicable
7 hourly rates in effect during the pay period and the corresponding number of hours worked at
8 each hourly rate by the employee. The deficiencies include, among other things, the failure to
9 correctly state the gross and net wages earned by Plaintiff and Class Members, and all hours
10 worked. In violation of the Labor Code, Plaintiff and Class Members were not provided with
11 accurate itemized wage statements.

12 43. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that they were prohibited from withholding amounts from the wages of
14 Plaintiff and Class Members, aside for certain statutory exceptions. However, Defendants only
15 paid Plaintiff and Class Members' wages if they were able to sell a certain amount of product
16 during a sales period, which encouraged Plaintiff and other aggrieved employees to purchase
17 products themselves so they could receive payment, resulting in a deduction of wages.
18 Moreover, Defendants charged Plaintiff and Class Members other deductions and penalties,
19 including in the event of a chargeback.

20 44. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
21 should have known that Plaintiff and Class Members were entitled to reimbursement for
22 necessary business expenditures incurred in connection with the performance and execution of
23 their job duties. In violation of the California Labor Code, Plaintiff and Class Members did not
24 receive adequate reimbursement for necessary business expenses, including but not limited to
25 reimbursement for use of their home internet, cell-phone expenses, and computer expenses.
26 Further, Defendants required Plaintiff and Class Members to pay a monthly fee to make use of
27 its web services, for which they were not reimbursed. Finally, Defendants required that Plaintiff
28 and Class Members purchase an amount of product each month in order to maintain their

1 distributor status, regardless of whether such product was sold or not. Plaintiff and Class
2 Members were not reimbursed for the entire cost of this unsold product, if at all.

3 45. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and Class Members who separated from Defendants were
5 entitled to timely payment of wages upon separation of employment. In violation of the
6 California Labor Code, Plaintiff and the Waiting Time Subclass Members did not receive
7 payment of all wages including, but not limited to, unpaid minimum and overtime wages, meal
8 periods premiums, and rest break premiums within permissible time periods.

9 **FIRST CAUSE OF ACTION**

10 **FAILURE TO PAY MINIMUM WAGES**

11 **(Violation of Labor Code §§ 1194, 1194.2, 1197, and IWC Wage Order)**

12 46. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
13 though fully set forth herein.

14 47. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees
15 fixed by the IWC is the minimum wage to be paid to employees, and the payment of a lesser
16 wage than the minimum so fixed is unlawful.

17 48. During the relevant time period, Defendant paid Plaintiff and Class Members less
18 than minimum wage when, for example, Defendants failed to pay all commissions earned by
19 Plaintiff and Class Members twice during each calendar month and failed to pay Plaintiff and
20 Class Members for the time spent attending trainings and meetings.

21 49. During the relevant time period, Defendants regularly failed to pay at least
22 minimum wage to Plaintiffs and Class Members for all hours worked pursuant to Labor Code §§
23 1194 and 1197.

24 50. Defendants' failure to pay Plaintiff and Class Members the minimum wage as
25 required violates Labor Code §§ 1194 and 1197. Pursuant to these sections, Plaintiff and Class
26 Members are entitled to recover the unpaid balance of their minimum wage compensation as
27 well as interest, costs, and attorneys' fees.
28

1 51. Pursuant to Labor Code § 1194.2, Plaintiff and Class Members are entitled to
2 recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest
3 thereon.

4 **SECOND CAUSE OF ACTION**

5 **FAILURE TO PAY OVERTIME WAGES**

6 **(Violation of Labor Code §§ 510, 1194, and 1198; Violation of IWC Wage Order)**

7 52. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
8 though fully set forth herein.

9 53. Labor Code § 1198 and the applicable IWC Wage Order provide that it is
10 unlawful to employ persons without compensating them at a rate of pay either one and one-half
11 (1½) or two (2) times the person's regular rate of pay, depending on the number of hours or days
12 worked by the person on a daily or weekly basis.

13 54. Specifically, the applicable IWC Wage Orders provide that Defendants are and
14 were required to pay overtime compensation to Plaintiff and Class Members at the rate of one
15 and one-half times (1½) their regular rate of pay when working and for all hours worked in
16 excess of eight (8) hours in a day or more than forty (40) hours in a workweek and for the first
17 eight (8) hours of work on the seventh day of work in a workweek.

18 55. The applicable IWC Wage Orders further provide that Defendants are and were
19 required to pay overtime compensation to Plaintiff and Class Members at a rate of two times
20 their regular rate of pay when working and for all hours worked in excess of twelve (12) hours in
21 a day or in excess of eight (8) hours on the seventh day of work in a workweek.

22 56. California Labor Code § 510 codifies the right to overtime compensation at one
23 and one-half (1½) times the regular hourly rate for hours worked in excess of eight (8) hours in a
24 day or forty (40) hours in a week and for the first eight (8) hours worked on the seventh
25 consecutive day of work, and overtime compensation at twice the regular hourly rate for hours
26 worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the
27 seventh day of work in a workweek.

1 57. Labor Code § 510 and the applicable IWC Wage Orders provide that employment
2 of more than six days in a workweek is only permissible if the employer pays proper overtime
3 compensation as set forth herein.

4 58. Plaintiff and Class Members were wrongfully misclassified as independent
5 contractors by Defendants and, instead, should have been classified as non-exempt employees
6 entitled to the protections of California Labor Code §§ 510 and 1194.

7 59. During the relevant time period, Defendants failed to pay Plaintiff and Class
8 Members overtime wages for all overtime hours worked when Plaintiff and Class Members
9 worked in excess of eight (8) hours in a day, forty (40) hours in a week, and/or for a seventh
10 consecutive day of work in a workweek, or when Plaintiff and Class Members worked in excess
11 of twelve (12) hours in a day and/or in excess of eight (8) hours on the seventh day of work in a
12 work week.

13 60. In violation of state law, Defendants knowingly and willfully refused to perform
14 their obligations to compensate Plaintiff and Class Members for all wages earned and all hours
15 worked.

16 61. Defendants' failure to pay Plaintiff and Class Members the unpaid balance of
17 overtime and double time compensation, as required by California law, violates the provisions of
18 Labor Code §§ 510 and 1198, and is therefore unlawful.

19 62. Pursuant to Labor Code § 1194, Plaintiff and Class Members are entitled to
20 recover their unpaid overtime and double time compensation as well as interest, costs, and
21 attorneys' fees.

22 **THIRD CAUSE OF ACTION**

23 **FAILURE TO TIMELY PAY ALL EARNED WAGES**

24 **(Violation of Labor Code §§ 204 and 210; Violation of IWC Wage Order)**

25 63. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
26 though fully set forth herein.

27 64. Labor Code § 204 provides that all wages earned by an employee are due and
28 payable twice during each calendar month.

1 65. Defendants failed to timely pay Plaintiff and Class Members all of their earned
2 wages as required by Labor Code § 204.

3 66. Plaintiff and Class Members have been deprived of their rightfully earned wages
4 as a direct and proximate result of Defendants' failure to pay said compensation. Plaintiff and
5 Class Members are entitled to recover such amounts, plus interest thereon, attorneys' fees and
6 costs.

7 67. In addition, Plaintiff and class members are entitled to penalties pursuant to Labor
8 Code § 210 as follows: (1) for Defendants' initial violation, \$100 for each failure to pay each
9 Class Member; and (2) for each of Defendants' subsequent violations, or any willful or
10 intentional violation, \$200 for each failure to pay each Class Member, plus 25 percent of the
11 amount unlawfully held.

12 **FOURTH CAUSE OF ACTION**

13 **FAILURE TO PROVIDE MEAL PERIODS**

14 **(Violation of Labor Code §§ 226.7, 512, and IWC Wage Order)**

15 68. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
16 though fully set forth herein.

17 69. Labor Code § 226.7 provides that no employer shall require an employee to work
18 during any meal period mandated by the IWC Wage Orders.

19 70. Section 11 of the applicable IWC Wage Order states "no employer shall employ
20 any person for a work period of no more than five (5) hours without a meal period of not less than
21 30 minutes, except that when a work period of not more than six (6) hours will complete the day's
22 work, the meal period may be waived by mutual consent of the employer and the employee."

23 71. Labor Code § 512(a) provides that an employer may not require, cause, or permit
24 an employee to work for a period of more than five (5) hours per day without providing the
25 employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the
26 total work period per day of the employee is not more than six (6) hours, the meal period may be
27 waived by mutual consent of both the employer and the employee.
28

1 72. Labor Code § 512(a) further provides that an employer may not employ an
2 employee for a work period of more than ten (10) hours per day without providing the employee
3 with a second meal period of not less than thirty (30) minutes, except that if the total hours worked
4 is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the
5 employer and the employee only if the first meal period was not waived.

6 73. During the relevant time period and as a result of Defendant's willful
7 misclassification of Plaintiff and other Class Members as independent contractors, Plaintiff and
8 Class Members did not receive compliant meal periods for each five hours worked per day,
9 including a second meal period when Plaintiff and Class Members worked ten or more hours in a
10 day.

11 74. Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order require
12 an employer to pay an employee one additional hour of pay at the employee's regular rate of
13 compensation for each work day that a meal period is not provided.

14 75. At all relevant times, Defendant failed to pay Plaintiff and Class Members all meal
15 period premiums due for meal period violations pursuant to Labor Code § 226.7(b) and section 11
16 of the applicable IWC Wage Order.

17 76. As a result of Defendant's failure to pay Plaintiff and Class Members an additional
18 hour of pay for each day a meal period was not provided, Plaintiff and Class Members suffered and
19 continue to suffer a loss of wages and compensation.

20 **FIFTH CAUSE OF ACTION**

21 **FAILURE TO PERMIT REST BREAKS**

22 **(Violation of Labor Code §§ 226.7 and IWC Wage Order)**

23 77. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
24 though fully set forth herein.

25 78. Labor Code § 226.7(a) provides that no employer shall require an employee to
26 work during any rest period mandated by the IWC Wage Orders.

27 79. Section 12 of the applicable IWC Wage Order states "every employer shall
28 authorize and permit all employees to take rest periods, which insofar as practicable shall be in the

1 middle of each work period” and the “authorized rest period time shall be based on the total hours
2 worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction
3 thereof” unless the total daily work time is less than three and one-half (3½) hours.”

4 80. During the relevant time period, Plaintiff and Class Members did not receive a ten
5 (10) minute rest period for every four (4) hours or major fraction thereof worked due to
6 Defendant’s willful misclassification of Plaintiff and Class Members as independent contractors.

7 81. Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order require
8 an employer to pay an employee one additional hour of pay at the employee’s regular rate of
9 compensation for each workday that the rest period is not provided.

10 82. At all relevant times, Defendant failed to pay Plaintiff and Class Members all rest
11 period premiums due for rest period violations pursuant to Labor Code § 226.7(b) and section 12
12 of the applicable IWC Wage Order.

13 83. As a result of Defendant’s failure to pay Plaintiff and Class Members an additional
14 hour of pay for each day a rest period was not provided, Plaintiff and Class Members suffered and
15 continue to suffer a loss of wages and compensation

16 **SIXTH CAUSE OF ACTION**

17 **UNLAWFUL DEDUCTION OF WAGES**

18 **(Violation of Labor Code §§ 221, 223)**

19 84. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
20 though fully set forth herein.

21 85. Labor Code § 221 provides, in pertinent part, “[i]t shall be unlawful for any
22 employer to collect or receive from an employee any part of wages theretofore paid by said
23 employer to said employee.”

24 86. During the relevant time period, Defendants made unlawful deductions from
25 Plaintiff’s and Class Members’ wages by only paying Plaintiff’s and Class Members’ wages if they
26 sold a certain amount of product during a sales period, incentivizing Plaintiff and Class Members
27 to purchase product themselves so they could receive payment, thus resulting in a deduction of
28

1 wages. Further, Defendants charged Plaintiff and Class Members other deductions and penalties,
2 including in the event of a chargeback.

3 87. Defendants' violation of Labor Code §§ 221-223 caused Plaintiff and Class
4 Members to suffer substantial monetary losses, expenses, and attorneys' fees in seeking to compel
5 Defendants to fully perform their obligations under California law. As a result, Plaintiff and Class
6 Members suffered and continue to suffer a loss of wages and compensation, pursuant to Labor
7 Code § 218.5 and Code of Civil Procedure 1021.5.

8 **SEVENTH CAUSE OF ACTION**

9 **FAILURE TO REIMBURSE ALL BUSINESS EXPENSES**

10 **(Violation of Labor Code §§ 2800, 2802, and the IWC Wage Order)**

11 88. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
12 though fully set forth herein.

13 89. Labor Code section 2800 provides, in pertinent part, "[a]n employer shall in all
14 cases indemnify his employee for losses caused by the employer's want of ordinary care."

15 90. Labor Code section 2802 provides, in pertinent part, "[a]n employer shall
16 indemnify his or her employee for all necessary expenditures or losses incurred by the employee
17 in direct consequence of the discharge of his or her duties"

18 91. Labor Code section 2802 further provides, in pertinent part: "the term 'necessary
19 expenditures or losses' shall include all reasonable costs, including but not limited to, attorney's
20 fees incurred by the employee enforcing the rights granted by this section."

21 92. California Labor Code section 2804 mandates that this statutory right cannot be
22 waived.

23 93. During the relevant time period, Defendants were required to indemnify and
24 reimburse Plaintiff and Class Members for all expenditures or losses caused by the employer's
25 want of ordinary care and/or incurred in direct consequence of the discharge of their duties, but
26 failed to indemnify and reimburse Plaintiff and Class Members.

27 94. During the relevant time period, Defendant failed to adequately reimburse
28 Plaintiff and Class Members for necessary business expenses, including but not limited to

1 reimbursement for use of their home internet, cell-phone expenses, and computer expenses.
 2 Further, Defendants required Plaintiff and Class Members to pay a monthly fee to make use of
 3 its web services, for which they were not reimbursed. Finally, Defendants required that Plaintiff
 4 and Class Members purchase an amount of product each month in order to maintain their
 5 distributor status, regardless of whether such product was sold or not. Plaintiff and Class
 6 Members were not reimbursed for the entire cost of this unsold product, if at all, in violation of
 7 the Labor Code.

8 95. As a direct and proximate result, Plaintiff and Class Members have suffered, and
 9 continue to suffer, substantial losses related to the use and enjoyment of such monies to be
 10 reimbursed, lost interest on such monies, expenses, and attorneys' fees in seeking to compel
 11 Defendants to fully perform their obligations under California law, all to their damage in
 12 amounts according to proof at the time of trial.

13 96. Accordingly, Plaintiff and Class Members are entitled to recover, and hereby
 14 seek, an amount equal to the incurred necessary expenditures, pre- and post-judgment interest,
 15 applicable penalties, attorneys' fees and costs, and any further equitable relief this Court may
 16 deem just and proper. *See* Cal. Lab. Code § 2802; *see also* Cal. Civ. Proc. Code § 1021.5.

17 **EIGHTH CAUSE OF ACTION**

18 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

19 **(Violation of Labor Code § 226; Violation of IWC Wage Order)**

20 97. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
 21 though fully set forth herein.

22 98. Labor Code § 226(a) requires Defendants to provide each employee with an
 23 accurate wage statement in writing showing nine pieces of information, including: (1) gross
 24 wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned
 25 and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions,
 26 provided that all deductions made on written orders of the employee may be aggregated and
 27 shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the
 28 employee is paid, (7) the name of the employee and the last four digits of his or her social

1 security number or an employee identification number other than a social security number, (8)
2 the name and address of the legal entity that is the employer, and (9) all applicable hourly rates
3 in effect during the pay period and the corresponding number of hours worked at each hourly
4 rate by the employee.

5 99. During the relevant time period, Defendants have knowingly and intentionally
6 failed to comply with Labor Code § 226(a) on wage statements that were provided to Plaintiff
7 and class members. The deficiencies include, among other things, the failure to correctly state
8 the gross and net wages earned by Plaintiff and Class Members, and all hours worked.

9 100. As a result of Defendants' violation of California Labor Code § 226(a), Plaintiff
10 and Class Members have suffered injury and damage to their statutorily protected rights.
11 Specifically, Plaintiff and Class Members have been injured by Defendants' intentional violation
12 of California Labor Code § 226(a) because they were denied both their legal right to receive, and
13 their protected interest in receiving, accurate itemized wage statements under California Labor
14 Code § 226(a). Plaintiff has had to file this lawsuit in order to determine the extent of the
15 underpayment of wages, thereby causing Plaintiff to incur expenses and lost time. Plaintiff
16 would not have had to engage in these efforts and incur these costs had Defendants provided the
17 accurate wages earned. This has also delayed Plaintiff's ability to demand and recover the
18 underpayment of wages from Defendants.

19 101. California Labor Code § 226(a) requires an employer to pay the greater of all
20 actual damages or fifty dollars (\$50.00) for the initial pay period in which a violation occurred,
21 and one hundred dollars (\$100.00) per employee for each violation in subsequent pay periods,
22 plus attorney's fees and costs, to each employee who was injured by the employer's failure to
23 comply with California Labor Code § 226(a).

24 102. Defendants' violations of California Labor Code § 226(a) prevented Plaintiff and
25 Class Members from knowing, understanding and disputing the wages paid to them, and resulted
26 in an unjustified economic enrichment to Defendants. As a result of Defendants' knowing and
27 intentional failure to comply with California Labor Code § 226(a), Plaintiff and Class Members
28 have suffered an injury, and the exact amount of damages and/or penalties is all in an amount to

1 be shown according to proof at trial.

2 103. Plaintiff and Class Members are also entitled to injunctive relief under California
3 Labor Code § 226(h), compelling Defendants to comply with California Labor Code § 226, and
4 seek the recovery of attorneys' fees and costs incurred in obtaining this injunctive relief.

5 **NINTH CAUSE OF ACTION**

6 **FAILURE TO PAY ALL WAGES DUE UPON SEPARATION OF EMPLOYMENT**

7 **AND WITHIN THE REQUIRED TIME**

8 **(Violation of Labor Code §§ 201, 202 and 203; Violation of IWC Wage Order)**

9 104. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
10 though fully set forth herein.

11 105. California Labor Code §§ 201 and 202 provide that if an employer discharges an
12 employee, the wages earned and unpaid at the time of discharge are due and payable
13 immediately, and that if an employee voluntarily leaves his employment, his wages shall become
14 due and payable not later than seventy-two (72) hours thereafter, unless the employee has given
15 seventy-two (72) hours previous notice of his intention to quit, in which case the employee is
16 entitled to his wages at the time of quitting.

17 106. During the relevant time period, Defendants willfully failed to pay Plaintiff and
18 Waiting Time Subclass members all their earned wages upon termination including, but not
19 limited to, unpaid minimum and overtime wages, meal period premiums, and rest break
20 premiums within permissible time periods..

21 107. Defendants' failure to pay Plaintiff and Waiting Time Subclass Members all their
22 earned wages at the time of discharge or within seventy-two (72) hours of their leaving
23 Defendants' employ is in violation of Labor Code §§ 201 and 202.

24 108. California Labor Code § 203 provides that if an employer willfully fails to pay
25 wages owed immediately upon discharge or resignation in accordance with Labor Code §§ 201
26 and 202, then the wages of the employee shall continue as a penalty from the due date at the
27 same rate until paid or until an action is commenced; but the wages shall not continue for more
28 than thirty (30) days.

109. Plaintiff and Waiting Time Subclass members are entitled to recover from Defendants the statutory penalty which is defined as Plaintiff's and Waiting Time Subclass members' regular daily wages for each day they were not paid, at their regular hourly rate of pay, up to a thirty (30) day maximum pursuant to Labor Code § 203.

TENTH CAUSE OF ACTION

VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17200, ET SEQ.

110. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as though fully set forth herein.

111. Defendants' conduct, as alleged herein, has been and continues to be unfair, unlawful, and harmful to Plaintiff and Class Members. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

112. Defendants' activities, as alleged herein, violate California law and constitute unlawful business acts or practices in violation of California Business and Professions Code §§ 17200, *et seq.*

113. A violation of Business and Professions Code §§ 17200, *et seq.* may be predicated on the violation of any state or federal law.

114. Defendants' policies and practices have violated California state law in at least the following respects:

(a) Failing to timely pay all wages earned by Plaintiff and class members in violation of Labor Code §§ 204, and 210;

(b) Deducting the wages of Plaintiff and class members in violation of Labor Code § 221;

(c) Failing to provide Plaintiff and class members with accurate itemized wage statements in violation of Labor Code § 226; and

(e) Failing to timely pay all earned wages to Plaintiff and Waiting Time Subclass members upon separation of employment in violation of Labor Code §§ 201, 202 and 203.

115. Defendants intentionally avoided paying Plaintiff and class members' wages and monies, thereby creating for Defendants an artificially lower cost of doing business in order to

undercut their competitors and establish and gain a greater foothold in the marketplace.

116. Pursuant to Business and Professions Code §§ 17200, *et seq.* Plaintiff and class members are entitled to restitution of the wages unlawfully withheld and retained by Defendants during a period that commences four years prior to the filing of the Complaint, an award of attorneys' fees pursuant to Code of Civil Procedure § 1021.5 and other applicable laws; and an award of costs.

PRAYER FOR RELIEF

Plaintiff, on her own behalf and on behalf of all others similarly situated, prays for relief and judgment against Defendants, jointly and severally, as follows:

1. For certification of this action as a class action, including certifying the Class and Subclass alleged by Plaintiff;
2. For appointment of Marites Perez as the class representative;
3. For appointment of Lebe Law, APLC as class counsel for all purposes;
4. For compensatory damages in an amount according to proof with interest thereon;
5. For economic and/or special damages in an amount according to proof with interest thereon;
6. For recovery of unpaid wages pursuant to Labor Code §§ 221–223.
7. For waiting time penalties of 30-days pay pursuant to Labor Code section 203 related to Defendants' failure to timely pay all wages due to Plaintiff and all other terminated or separated Class Members, distributed in a fair and equitable manner in an amount according to proof;
8. For reimbursement of unpaid business expenses, in accordance with Labor Code section 2802;
9. For reasonable attorneys' fees, costs of suit and interest to the extent permitted by law, including pursuant to Code of Civil Procedure § 1021.5, Labor Code §§ 226(e) and 1194;
10. For statutory penalties to the extent permitted by law, including those pursuant to the Labor Code and IWC Wage Orders;
11. For restitution as provided by Business and Professions Code §§ 17200, *et seq.*;

12. For an order requiring Defendants to restore and disgorge all funds to each employee acquired by means of any act or practice declared by this Court to be unlawful, unfair or fraudulent and, therefore, constituting unfair competition under Business and Professions Code §§ 17200, *et seq.*;

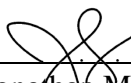
13. For an award of damages in the amount of unpaid compensation including, but not limited to, unpaid wages, benefits and penalties, including interest thereon;

14. For pre-judgment interest; and

15. For such other relief as the Court deems just and proper.

Dated: July 19, 2023

LEBE LAW, APLC

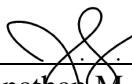
By: 
Jonathan M. Lebe
Zachary T. Gershman
Ryan C. Ely
Attorneys for Plaintiff Marites Perez,
Individually and on behalf of all others similarly
situated

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial with respect to all issues triable of right by jury.

Dated: July 19, 2023

LEBE LAW, APLC

By: 
Jonathan M. Lebe
Zachary T. Gershman
Ryan C. Ely
Attorneys for Plaintiff Marites Perez,
Individually and on behalf of all others similarly
situated